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Situation of human rights in the Islamic Republic of Iran

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report prepared by Maurice Copithorne, Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran, in accordance with Assembly resolution 52/142 of 12 December 1997 and Economic and Social Council decision 1998/273 of 30 July 1998.

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Annex

Interim report on the situation of human rights in the Islamic Republic of Iran prepared by the Special Representative of the Commission on Human Rights in accordance with General Assembly resolution 52/142 of 12 December 1997 and Economic and Social Council decision 1998/273 of 30 July 1998

Executive summary

1. The public and private debate about change in governance and in the judicial system has become more open and more sharply focused.

2. Much of this change would directly or indirectly impact on the promotion and protection of human rights.

3. There is a significant commitment to such change in many quarters including, in particular, the executive.

4. Some human rights sectors are already benefiting from this including, in particular, freedom of expression which, despite occasional setbacks, does appear overall to be making progress.

5. Comprehensive plans for change in other areas have been announced including, in particular, the prison system and, to a lesser extent, the court system. There have also been positive developments with regard to the Independent Bar Association and the Islamic Human Rights Commission.

6. In other areas, notably the status of women and the status of religious and ethnic minorities, there appears to be no comparable commitment to change. In both areas, human rights violations continue to occur.

7. The situation of the Baha'is has not improved in the period under review, nor has there been progress in the matter of the fatwa against Salman Rushdie.

8. In selected other areas, progress, in real or prospective terms, exists in about half the areas examined.

9. While the Islamic Republic of Iran is making progress in the field of human rights, this progress is uneven and a number of sectors are, at this time, being left behind. The Government needs to broaden its agenda for change and to declare a strong commitment to achieving certain goals within specified time-frames.

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I. Introduction

1. The domestic reform process in the Islamic Republic of Iran, which has been given new life and major impetus by President Khatami, continued during the period under review, January to 31 August 1998. For many, this process was too slow in bearing fruit and the improvements were too uncertain. For others, the process was moving too quickly, and the Islamic nature of the society was in jeopardy. Some observers saw the contest as one between freedom on the one hand and economic development and social justice on the other. The development of human rights in the Islamic Republic of Iran seems to be very much bound up with the outcome of this debate.

2. In practical terms, the contest is impeding improvements in most of the major sectors under review by the Special Representative. Thus, in the area of freedom of expression where progress is tangible, it seems to be too often a matter of two steps forward and one step back. In other areas, notably the legal system, there is a promising commitment by the executive. In still others, such as women, and despite statements by the Government, continuing quantifiable progress is not yet in sight. There are bright spots or potentially bright spots such as the Islamic Human Rights Commission, the acknowledgement that torture exists, and the reform of the prison system. The situation of the Baha'is has not improved. As the present report was completed, it was reported in the media that an accommodation on the matter of the fatwa against Salman Rushdie had apparently been reached between the Iranian and British Foreign Ministers.

3. The Special Representative was very disappointed that, despite repeated statements to the United Nations High Commissioner for Human Rights and to others, no invitation was forthcoming from the Government for the Special Representative to visit the Islamic Republic of Iran. It was inevitable that the absence of first-hand knowledge would have an impact on this report. The Special Representative again calls on the Government to resume its full cooperation with him in the discharge of his mandate.

4. Finally, the Special Representative wishes to note the visit to Tehran of the High Commissioner during this period to open the Sixth Workshop on Human Rights Arrangements in the Asia Pacific Region. In the course of the visit, the High Commissioner had discussions with senior Iranian officials on human rights matters, among which was the question of another visit to the Islamic Republic of Iran by the Special Representative.

II. The Special Representative's activities and sources

5. In April 1998, the Special Representative introduced his third report to the Commission on Human Rights (E/CN.4/1998/59). The Special Representative returned to Geneva in May to carry out consultations and participate in the fifth meeting of special rapporteurs, special representatives, experts and chairpersons of working groups of the Commission on Human Rights. During his stay in Geneva, from 17 to 27 August 1998, to prepare the present report, the Special Representative met with senior officials of the Government of the Islamic Republic of Iran, and with the United Nations High Commissioner for Human Rights, and had other consultations.

6. To carry out the terms of his mandate, the Special Representative continues to draw from a wide range of information sources, including the Government of the Islamic Republic of Iran, other Governments, United Nations organizations, bodies and programmes, non-governmental organizations, individuals and media reports emanating from inside and outside the Islamic Republic of Iran.

7. During the reporting period, the Special Representative received written communications from the following groups: About Iran; Amnesty International; Cross Colors Communication, Inc.; Association of Iranian Political Prisoners in Exile; Association for World Education; The Joint Committee of Iranian Opposition; Baha'i International Community; Democratic Party of Iranian Kurdistan; Iranian Worker Left Unity; Labour Council (Shoray kar); Sharareha Association; Solidarity Radio (Hambastegi Radio); Wamen Radion (Zanan Raido); Left activists; International Federation of Iranian Refugees; International PEN; People's Mojahedin Organization of Iran; Lawyers Committee for Human Rights in New York; National Council of Resistance of Iran; National Committee of Women for Democratic Iran; Organisation for Defending Victims of Violence; Organization of Iranian People's Fedaian (Majority); Labour Party of Iran Tofan; Group Defending Freedom of Expression in Iran; Iranian Association of Writers in Exile; Organization of Revolutionary Workers of Iran (Rahe Kargar); Fadaiian (Aghaliat); Communist Party of Iran; Combatant Workers Party of Iran; Hasteh Aghaliat; Society for the Defense of Political Prisoners in Iran; Working Group for Institutionalization of Human Rights in Iran (WGIHRI); World Association of Newspapers; and Human Rights Watch.

III. Freedom of opinion and expression

8. The period from January to August 1998 saw a continuation of government efforts to make progress in the area of freedom of opinion and expression. That Iranian media reported widely on these developments itself speaks to the freewheeling public debate that continues on many subjects. Some of the reported incidents are set out in appendix I.

9. Some incidents deserve particular mention. In May, foreign wire services quoting Islamic Republic of Iran dailies, said that the former editor of *Iran*, Morteza Firoozi, who had been in custody since May 1997, had lost his appeal on charges of having spied for several countries, and of committing adultery with a married woman. He was reported in the Iranian press to have been sentenced to death by stoning. Firoozi is said to be a highly regarded and well-connected journalist. Interventions by a number of international agencies, including an urgent appeal by the Special Rapporteur on extrajudicial, summary or arbitrary executions of the Commission on Human Rights, were made on his behalf. The Government has advised that this death sentence has been commuted.

10. In July, a foreign wire service, quoting the Iranian national news agency (IRNA), reported that an Iranian appeals court had upheld a ban on a leading reformist paper, *Jameah*, which had become very popular for its outspoken reporting. The court referred to the publication of immoral material and to cartoons insulting the judiciary. Also in July, a foreign wire service, quoting a Justice ministry spokesman, said that the director of the weekly *Khaneh* had been detained for "offending Islam", the Shiite clergy and Imam Khomeini, and for publishing photographs that violated public modesty. In August, a foreign wire service quoting IRNA reported that the Tehran Justice Department had banned the daily newspaper *Tous* which had resumed publication only the week before after a previous run-in with Iranian officials. Foreign wire services also reported that two reporters had been attacked by militants outside the offices of the newspaper. Shortly thereafter, a successor publication, *Attab-e Emrouz*, began publication.

11. Meanwhile, the Deputy Minister of Culture and Islamic Guidance for media affairs, Ahmad Bourqani, was quoted in the Islamic Republic of Iran English-language press as declaring that the Ministry would employ all its legal machinery for freedom and lawful operation of the press. He said that the Ministry would resort to the judiciary to protect this freedom. He was quoted as saying "nobody has the right to exert pressure on the press and the statements made on the basis of personal taste have no legal basis". He asserted that the Iranian press was now finding its true position in society. Government sources state that there are now some 1,095 licensed periodicals and 88 newspapers published in the Islamic Republic of Iran.

12. During this period, the minister responsible for media, the Minister of the Interior, was forced to resign by an impeachment vote in the Majlis. He was immediately appointed Vice-President of the Government. His successor as minister vowed to continue the reform effort. A foreign wire service reported that at his inauguration, the new minister declared "it is no art to allow only those to speak who agree with us".

13. In related developments, students at Tehran university held several large rallies during which strong criticism of the system was expressed. While there had been opposition to their being held, the Government appears to have intervened on only one occasion. Moreover, during this period, the extrajudicial group Ansar-e Hezbollah, which has a record of trying to break up reformist public meetings, appears to have been less in evidence, although there was at least one recorded attack on a meeting of university students in a Tehran park. There were also reports in April of unidentified groups disrupting Friday prayers in Isfahan, and of the failure of the judiciary to prosecute those concerned.

14. The Iranian media are clearly continuing to have a difficult time. On the one hand, there is in practice widespread freedom of expression; on the other, the lawful constraints upon that freedom have yet to be defined clearly and to be regulated by a truly independent tribunal committed to the application and enforcement of the law.

15. Freedom of expression remains a principal field of contention between two groups of leaders with strongly differing visions of Iranian society; one seeks significant respect for freedom of expression and related liberties.

IV. Status of women

16. In the period from January to August 1998, the status of women in the Islamic Republic of Iran did not appear to improve in any significant way.

17. According to foreign wire services, there continued to be occasional harassment of young women by Tehran police and extrajudicial groups for failing to conform to the appropriate dress code. In February, a foreign wire service reported the issuance of stricter dress code requirements for women as well as provisions for prison terms of three

months to one year, fines and the inflicting of up to 74 lashes.

18. In January 1998, a foreign wire service reported that the Majlis had rejected a bill that would have provided for equal inheritance rights for men and women. In May, the Iranian and foreign press reported the adoption by the Majlis of a law for the compulsory segregation of health-care services for men and women which the critics said would compromise health care for women and girls because there were not a sufficient number of trained female physicians and health-care professionals to meet their needs. The President of the Iran Society of Surgeons, a former Minister of Health, resigned over the issue and 1,200 doctors reportedly signed an open statement of protest. The proposal was also opposed by the Ministry of Health. In August 1998, a foreign wire service reported that the Majlis had approved a law imposing more restrictions on the use of photographs of women in newspapers and magazines.

19. With regard to the application of existing law, the Iranian media reported in June that a spokesman for the judiciary had declared that courts were not to accept cases brought before them for the registration of marriages between Iranian women and foreign nationals that lacked the necessary legal authorization of the Ministry of the Interior. It was further reported that any foreign national who married an Iranian woman without such prior authorization was subject to one to three years in prison.

20. In the official journal, No. 15,468, of 6 April 1998, it was reported that on 3 February 1998 the Supreme Council had taken a decision that the Islamic Republic of Iran would not accede to the Convention on the Elimination of All Forms of Discrimination against Women.[8] In the same issue of the journal, a document was published entitled "Principles and foundations of executive methods to promote culture of modesty and wearing of the veil". This document declared that, among other steps, the culture of modesty and wearing of the veil "must be observed in city planning and architecture", and that the chador "must be respected as the most complete and the most commonly used veil".

21. In August, the English-language Tehran press reported the appearance of *Zan*, the first women's daily paper devoted to women's affairs.

22. The role of women in the Iranian judicial system has been a matter of some uncertainty. The latest word on this subject from the head of the judiciary, Ayatollah Yazdi, as reported by Tehran Radio in July, is that there are now 99 women in the judicial system. Other reports add that, of these, four are judges in the family court and one is an assistant judge in the general court. So far however, no woman presides over trials or pronounces verdicts.

23. The Special Representative does not claim particular expertise on the status of women in Iranian or Islamic law. However, even a superficial reading of the literature suggests that there are real concerns relating to the application of particular Iranian norms and practices. These include the right to *mahr*, the bridal price roughly comparable to a dowry. It is described as often being a married woman's only bargaining counter in the face of threats of divorce. In rural areas, *mahr* is often replaced by *shirbaha*, a payment to the bride's father which effectively deprives rural women of all bargaining power. A second right viewed by observers as crucial is the legal reality of divorce. While men can divorce at will, women have to meet one of 12 specific criteria. Moreover, for minor indiscretions, the man can reportedly force the forfeiture of the *mahr* during divorce proceedings, in the course of which the woman may also lose her assets in the marriage and the custody of children above a certain age. Long delays in granting divorce to women can also occur. In January, the Prosecutor-General was quoted in a London-based Farsi newspaper as saying divorce could take up to 15 years. A third area of widespread concern is what might be called the autonomy of dress. Many argue for a more flexible view of what Islam requires in terms of *hejab*, rather than an insistence on the full chador, a garment viewed by many as singularly inconvenient and uncomfortable, and as only one of many traditional forms of *hejab* in Iranian society. There is also strong resentment at the implementation of the dress code by a variety of judicial and extrajudicial agencies, and at the excesses of punishment meted out for sometimes minor infringements. Reportedly, over the years, these have involved whippings and worse. For his part, the Special Representative has repeatedly pointed out the grossly offensive manner in which the dress code is on occasion enforced. A fourth area of concern is the reported lack in practice of a prompt and effective avenue through which a wife can get round a husband's withholding of consent which, in medical situations in particular, can jeopardize successful treatment and sometimes the life of the wife. Existing recourse to the courts even in medical cases is in practice often a highly drawn-out process.

24. The Special Representative suggests that in terms of the immediate interests of those most affected – the women of the Islamic Republic of Iran – the discourse should focus in the first place on such everyday needs of women. In the Islamic Republic of Iran, change remains both urgent and necessary and the steps mentioned above would constitute an important first step in addressing the discrimination faced

by women. In the view of the Special Representative, leadership by the Government in this field remains one of the critical touchstones for the overall improvement of human rights in the Islamic Republic of Iran.

V. Legal subjects

A. The legal system

25. The recent celebrated trials of the Mayor of Tehran, Gholam Hossein Karbaschi, and his colleagues touched off an intense public debate about the conduct of trials and, particularly, the appropriate role of judges. The conclusion seems to have been that the existing process had major flaws and that the system had to be reformed. An Iranian periodical carried a more broadly based critique of the search for a civil society and the Iranian judicial system, concluding that a major overhaul of both the judiciary and the relevant legislation was a prerequisite of the establishment of a civil society in the Islamic Republic of Iran.

26. The Special Representative had occasion in the period under review to discuss with the Iranian Prosecutor-General, Ayatollah Moghtadai, the reform of the legal system. The Special Representative was informed that (a) amendments to the existing law on the public and revolutionary courts were to go to the Majlis shortly; (b) training of judges was to be improved by requiring prospective judges to have an undergraduate degree before entering the judicial college; and (c) a judicial inspectorate of very senior judges had been established with a "sweeping mandate" for review and reform in each judicial complex of matters such as procedure, treatment of offenders and prioritization of court cases. So far, the process had been completed at two judicial complexes with what was described as significant success. With regard to the right to a lawyer, the Prosecutor-General volunteered that, "regrettably", some judges had resisted this development, particularly in the Revolutionary Courts. This has now been overcome and should it come to light in the course of review that a defendant has not been represented, the case will be sent back for retrial. If the defendant wants to defend himself or has no money to pay for a lawyer, the Court will instruct the Bar Association to appoint a lawyer. When asked about allegations that lawyers do not always defend their client vigorously or independently, the Prosecutor-General agreed to receive complaints in this regard. He was at the moment pursuing one such case with the Bar Association.

B. Independent Bar Association

27. In response to a question from the Special Representative concerning the openness of the long-promised elections for the executive of the Bar Association, finally held in December 1997, the Prosecutor-General denied reports that candidates had to have been approved by the Guardian Council, but did acknowledge that certain qualifications were required. In August, an Iranian paper reported a written protest by the Bar Association to Ayotallah Yazdi over the threats by the judge in the Karabaschi case to expel the defendant's lawyer. Also in August, an Iranian paper published the text of a detailed letter by the Bar Association to the Minister of Justice describing the weaknesses of the general courts system and setting out a number of important provisions that should be included in proposed amendments to the legislation.

C. Executions

28. Executions, as reported in the Iranian press in the period under review, have probably continued at a fairly high level. The Iranian authorities have now agreed to cooperate with the Special Representative in the provision of requested statistics. In the meantime, they insist that, excluding convicted drug traffickers, the figure is much lower than reported, perhaps by half. The Special Representative hopes to be able to include official statistics on this matter in his next report.

D. The prison system

29. The Special Representative had occasion to meet Morteza Bakhtiari, the newly appointed Director-General of the Prisons Organization, Public Protection and Prison Education. The prison system had been subjected to much criticism in the past both by the Special Representative and his predecessor, by the witness of former inmates and by non-governmental organizations and others concerned with the treatment of prisoners in the Islamic Republic of Iran.

30. Mr. Bakhtiari brings a new face and, it appears, a new approach to the task of reforming Iranian prisons. In the course of conversation, the following information was supplied. There are about 150,000 prisoners in the official prison system of whom about 63 per cent were incarcerated for narcotics-related offences. This percentage becomes higher closer to the Afghanistan/Pakistan border; in Kerman the figure is 82 per cent. It has now been decided to transfer

narcotics-related prisoners, if they agree, to newly established dedicated centres of which two are currently operating and a further 26 will be in operation by the end of the year. The governing ratio is 70 acres of land for each 500 prisoners. These centres will have a wide variety of facilities designed for rehabilitation.

31. With regard to other changes, Mr. Bakhtiari said that the Prisons Organization was (a) establishing a five-year plan for development; (b) establishing or strengthening human resource development such as academic scholarship programmes for social work training; (c) gradually recruiting professionally trained guard staff; (d) introducing twice-a-year workshops with all the provincial directors of prisons focusing on legal matters and in particular the United Nations Standard Minimum Rules for the Treatment of Prisoners;[b] and (e) preparing a new prison law which would emphasize rehabilitation and introduce the United Nations Standard Minimum Rules into Iranian law.

32. In response to questions about other detention centres, often known for their mistreatment of detainees, Mr. Bakhtiari said that a senior task force had been established in the judiciary, including himself, "to root out illegal detention centres". With regard to the mistreatment of prisoners, Mr. Bakhtiari declared such treatment was anti-Islamic and that every person detained or imprisoned on any ground should receive treatment according to law.

33. The Special Representative welcomes the prospect of serious improvement of the Iranian prison system, and looks forward to following the implementation of these long-overdue reforms.

E. Torture or cruel, inhuman or degrading treatment or punishment

34. In his recent reports, the Special Representative has been addressing certain punishments used in the Islamic Republic of Iran that are generally considered to fall within this category. One of these is stoning. In March 1998, an Iranian daily carried a report about a news conference in which a senior official, in response to a question about why he had not defended the practice of stoning during interviews outside the country, said that "we should keep the interests of our country in mind in an open atmosphere of international public relations. Would it be in our interest if an act of stoning is filmed and broadcast abroad? If not, we should consider carrying out the verdict in front of a small crowd of the believers in order to forestall public backlash". To the Special Representative's knowledge, this is the first recent occasion on which such a senior official has spoken about this form of punishment. The Special Representative notes with regret such evident approval for this form of punishment from such a source in the executive. The Special Representative again calls upon the Government to abolish the practice of stoning.

35. It has come to the attention of the Special Representative that Iranian courts have on occasion apparently sentenced persons to blinding. A foreign wire service carried such a story, dated 4 January 1998, without providing the name of the individual or the place where the sentence was meted out. Even as retribution for a crime that had involved an act of blinding, there can be no justification for such a punishment as so clearly falls within the international definition of cruel, inhuman or degrading punishment. The Government advises that this sentence has been revoked.

36. With regard to amputation, the Special Representative notes that according to the Iranian press and foreign wire services, amputation continues to be a judicially imposed punishment, chiefly, it would seem, for those convicted of repeated theft. The Government advises that, in practice, no amputation punishments are now being carried out.

37. In this report, the Special Representative wishes to pay some attention to the subject of torture. Torture appears to have had a long history in the Islamic Republic of Iran; it was certainly widely practised in the Pahlavi era. It is frequently alleged that it has continued since that time. Without going back over the period covered by his predecessors, the Special Representative wishes to observe that there appears to be much credible evidence in support of such allegations. Since his assumption of the mandate, the Special Representative has received many such allegations, most, but not all, referring to the period before he took office. The Special Representative has no reason to doubt that many of these have a basis in fact. In its occasional comments on the subject, the Government has until now simply declared that torture is banned by the Constitution. Specific allegations brought to its attention were denied. Allegations of torture have not been mentioned in the Iranian press.

38. Recently, however, there have been several positive developments. The first is that allegations of torture, apparently used to elicit information or a confession, are now being openly reported in the Iranian press, perhaps most notably in the aftermath of the recent trial of Gholamhossain Karbaschi, the then Mayor of Tehran, and his colleagues. Second, foreign wire services, quoting Iranian press stories, reported that in response to these allegations, 152 deputies

in the Majlis had sent a letter to the Supreme Leader Ayatollah Khamani requesting a high-level inquiry into them. Third, as mentioned in paragraph 48 below, the Islamic Human Rights Commission has recently seemed to be taking allegations of torture seriously. Fourth, an Iranian paper reported in July that the Commander of the State Security Forces Protection and Intelligence Department had declared that 10 or 12 suits had been filed against the security forces for torture and physical and psychological violence.

39. The existence of torture has been confirmed by witnesses who have appeared recently before the Special Representative, testifying to extreme physical abuse at particular detention centres in Tehran during the period under review.

40. The Special Representative views these developments with considerable hope. That such allegations are now part of the public discourse is an important first step towards doing away with this gross invasion of personal integrity – this violation of basic human rights.

VI. Situation of the Baha'is

41. During the reporting period, the Special Representative continued to receive reports of the violation of the human rights of Baha'is, forcing him to conclude that the pattern of persecution of members of this community has not abated.

42. According to information received by the Special Representative (see appendix II), a Baha'i prisoner in Mashad, Ruhu'ulah Rowhani, was executed on 21 July 1998, after having served nine months in solitary confinement reportedly on charges of unlawfully attempting to convert a woman to the Baha'i faith. Three other Baha'is were reported to have also been sentenced to death in Mashad. After first denying the reports, the Iranian authorities subsequently acknowledged that he had been executed. They asserted that the case had nothing to do with conversion, that he had been convicted instead of spying for Israel, and that this was the third occasion on which he was found to have been engaged in this activity. The authorities stated that the death sentences against the other three Baha'is who had been convicted of the same offence had been lifted, as this was their first offence.

43. It was reported that since November 1997, 12 Baha'is had been imprisoned and 6 released. According to information received, by the end of July 1998, 15 Baha'is remained in detention in the Islamic Republic of Iran, charged with such activities as holding meetings and teaching their faith, or allegedly engaging in espionage activities of one sort or another.

44. There continued to be reports of violations of the basic human right of Baha'is to enjoy free and peaceful association, to be free from the confiscation and destruction of individual and community Baha'i property, and to be free from discrimination with regard to access to education, employment, pensions and other public benefits, as well as reports of the denial of other fundamental rights and freedoms, including, *inter alia*, the freedom of movement.

45. The Special Representative once again urges the Government of the Islamic Republic of Iran to improve its treatment of the Baha'i community and, specifically, to refrain from ordering the death penalty for religious offences; to lift the ban on Baha'i organizations so that Baha'is may associate freely; to put an end to discrimination against Baha'is in all spheres of public life and services; to effect the return of confiscated personal and community Baha'i property; to institute the reconstruction of destroyed places of worship wherever possible or, at a minimum, ensure the provision of appropriate compensation to the Baha'i community; to lift restrictions regarding the burial and honouring of the dead; and to eliminate from passport application forms questions concerning religion so as to avoid undue infringements on the freedom of movement.

46. The Special Representative once again urges the Government of the Islamic Republic of Iran to implement the outstanding recommendations of the Special Rapporteur on religious intolerance.

VII. Other important matters

A. Islamic Human Rights Commission

47. In previous reports, the Special Representative had noted the reports he had received of the activities of the Islamic Human Rights Commission. He made recommendations for their extension and, in particular, for more detailed reporting on the allegations received by the Commission and their disposition, and on human rights developments generally in the Islamic Republic of Iran.

48. In March 1998, a foreign wire service carried a report, based probably on a Tehran press conference, of the Commission's Secretary-General, Mohammad Hassan Ziaifar. In this report, Mr. Ziaifar gave important information. There had been 2,450 complaints to the Commission in the past year, half of them from women and 50 per cent of them against the police. The Commission had

probed complaints from religious minorities "notably the Baha'is". Mr. Ziaifar acknowledged there were widespread human rights violations in the Islamic Republic of Iran, stating: "Torture and violence have no affinity with Islam." He complained about the detention centres run by different government organizations. The Commission had began to educate police and security officers as well as prison guards and judges about international and Islamic concepts of human rights. "We are after a cohesive, lawful and organized system to investigate and prove violations. We do not want to create a conflict between the Western notion of human rights and the Islamic one. We are after common ground. Human rights do not know borders. You cannot draw a fence around it." In a July report attributed to Tehran dailies, Mr. Ziaifar again spoke of the need for reform, particularly with regard to the use of coercion to obtain confessions.

49. The Special Representative welcomes what seems to be a new openness on the part of the Islamic Commission, and in particular a greater focus on the human rights situation within the Islamic Republic of Iran. He recommends that these trends be appropriately institutionalized and publicized as part of the process of the Commission's becoming a truly independent national agency for the promotion and protection of human rights in the Islamic Republic of Iran. He also suggests that a national action plan for human rights be developed.

B. Situation of certain religious minorities

50. In his report to the 1998 session of the Commission on Human Rights, the Special Representative expressed his view on what constitutes a minority by referring to the definition set out some years ago by Special Rapporteur Francisco Capotorti.[c] This definition is at odds with the view of the Iranian Government that religious minorities are defined constitutionally in the Islamic Republic of Iran, and that its constitutional definition does not, for example, encompass the Sunnis or certain other groups. The Special Representative continues to believe that in the Islamic Republic of Iran, groups meeting the Capotorti definition face discrimination – in some cases religious and in others ethnic or linguistic. He had hoped to pursue the matter in the course of a visit to the Islamic Republic of Iran, but the absence of the cooperation of the Government in this regard precluded this.

51. As regards the general subject of minority rights, the Special Representative wishes to draw attention to the latest Commission on Human Rights resolution thereon, namely Commission resolution 1998/18 entitled "Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief", adopted on 9 April 1998.

52. According to information coming to the Special Representative's attention from Zoroastrian and Christian sources in particular, even the recognized minorities believe they face discrimination in civil society. Allegations include the difficulty of obtaining government employment; the requirement placed upon shops to have a window sign reading, "Designated for religious minorities", which, officially, should apply only to food shops in the context of halal food, but which in practice is used to discourage Muslim customers; and the awarding of substantial damages in automobile accident claims if the driver was a person of a religious minority and the victim a Muslim but very low awards for cases where the reverse obtains. More generally, it is asserted that all minorities, especially religious minorities, are by law or practice barred from being elected to a representative body (except as regards the reserved seats in the Majlis), from becoming a school principal and from holding senior government or military positions.

53. In his last report to the General Assembly (A/52/472, of 15 October 1997), the Special Representative commented on the allegations he had received from Sunni sources, particularly the Baluch, concerning the destruction of Sunni schools and mosques, and the imprisonment, execution and assassination of Sunni leaders. Some of these allegations were and are quite specific. There are also charges of socio-economic discrimination and repression, and transmigration policies that risk turning the Baluch into a minority in their traditional lands.

54. The Government has made it clear that it does not regard the Sunnis, as fellow Muslims, to be a minority in Iranian society nor are they discriminated against owing to their beliefs. The Special Representative has been further informed that there are at least one judge and one provincial governor, and six or eight members of the Majlis, who are Sunnis.

55. The Special Representative is satisfied that the Sunni community and the Baluch in particular may well be subject to unacceptable treatment and he calls upon the Government to address the situation as a systemic problem rather than insist upon the details of particular incidents.

C. Narcotics control

56. The subject of narcotics control has been much discussed in the period under review. As noted above,

Iranian sources advise that nationally, 63 per cent of about 150,000 prisoners have been convicted of drug-related offences (see para. 30 above). These prisoners are now being separated into separate dedicated centres.

57. In January, an Iranian newspaper, quoting a statement of the Metropolitan Tehran police force, reported that 21,861 drug dealers and addicts had been arrested over the previous nine months. In February, the Iranian press reported an announcement by the Prosecutor-General, Ayatollah Moghtadai, that the punishment for drug trafficking had increased between two- and tenfold. In July, the *Economist* magazine described the narcotics crisis facing the Islamic Republic of Iran in terms of the struggle to control the entry of narcotics from Afghanistan and Pakistan. Almost 175 tons had been seized on the borders with those countries in the last year, up from perhaps 30 tons in 1990. The *Economist* noted that, according to official statistics, there were 500,000 addicts in the Islamic Republic of Iran but, also, that private estimates were higher.

58. The allegation is made from time to time that in its war on drugs, the Government sets aside human rights considerations or, worse, that it uses drug trafficking charges as a pretext for executing political prisoners. The Government has denied such charges. During the period under review the Special Representative has again received such an allegation. By their very nature, such allegations are difficult to prove or disprove in the circumstances that exist in the Islamic Republic of Iran. The Government advises that capital punishment is now only imposed in the case of ringleaders.

D. Extraterritorial violence

59. In the period under review, the Istanbul Court of Appeal upheld the conviction of an Iranian national, one Reza Barzegar Massoumi, for complicity in the murder in Istanbul in 1996 of Zahra Rajabi and Ali Moradi, both associated with the National Council of Resistance (NCR). Four members of the Iranian Consulate General in Istanbul had earlier been declared *personae non gratae* by the Turkish Government. In Rome, Italian security authorities reportedly continue their investigation into the assassination in Rome on 16 March 1993 of Mohammad Aossein Naghdi, the representative in Italy of the National Council of Resistance.

60. The Government of the Islamic Republic of Iran has consistently denied all allegations about involvement in such murders of Iranian dissidents abroad. The Special Representative notes that no new incidents of the type described above have come to his attention in the period under review.

61. Violence also continued against Iranian armed groups on the Iraqi side of the Islamic Republic of Iran/Iraq border. These attacks are not generally denied by the Iranian Government which describes them rather as legitimate self-defence measures. Given the uncertainty over the definition of the conditions usually attached to the exercise of this right at international law, with regard both to the existence of a real and present danger, and the principle of proportionality, it is difficult to come to unequivocal conclusions in most such cases.

62. Within the Islamic Republic of Iran, it should be noted that the National Council of Resistance has accepted responsibility for a July bombing in Tehran in which a number of persons were killed whom the National Council of Resistance asserts were judicial officials; this assertion is denied by the Iranian Government. In August, the same organization claimed responsibility for assassinating Asadollah Lajevardi, the former Director-General of the Iranian Prisons Organization. Two other persons were reportedly also killed in the incident.

63. The Special Representative condemns political violence among Iranians whether inside or outside the Islamic Republic of Iran.

E. Democracy

64. The Special Representative would note two prospective events in this regard. The first is the 23 October election on a universal suffrage basis of the Council of Experts, the body that under the Constitution is responsible for selecting the Supreme Leader and, by implication, removing him. Senior Iranian officials state that in recent years a 15-member commission of the Council charged with monitoring and advising the Supreme Leader has come to play an active role in the governance process. The second event is the prospect of the implementation for the first time of the constitutional provisions for local elected councils at the village, city and provincial levels.

VIII. Conclusions

65. On several occasions in the past, the Special Representative has drawn attention to the need for greater tolerance on the part of the Government of the Islamic Republic of Iran towards its own citizens. Certainly, this view appears to be shared by President Khatami as reflected

in his public statements. In a speech at the end of July to the heads of education departments in the country, the President declared that a religion that respects man first respects his freedom, "a divine right of human beings". Later the same week in a ceremony at IRNA the President was quoted as saying "I am trying today to defend people's rights on the basis of religion and freedom. We must defend the rights of an individual who does not even recognize my religion." It is difficult to doubt that these aspirations are sincerely felt but, as this report seeks to suggest, a tolerant society is still very much a work in progress. The general goals that the Islamic Republic of Iran should have before it in this regard were most recently reiterated by the Commission on Human Rights in its resolution 1998/21 entitled "Tolerance and pluralism as indivisible elements in the promotion and protection of human rights", adopted 9 April 1998.

66. In this report, the Special Representative identifies most of the areas he believes to be critical for the attainment of the declared goals of the President of the Islamic Republic of Iran. As noted, some quantifiable progress has been seen in some of these areas; in others, progress is not so evident, at least to an observer outside the country. While determined efforts are being made by the executive in the area of freedom of expression, for example, the same efforts are not evident with regard to the status of women. Measurable efforts to improve the legal system are only just beginning. The condition of religious and ethnic minorities must have a place in the agenda of the Government.

67. The Iranian tendency towards violence does not facilitate – nor does the frequent use of national security as a basis for derogating from basic rights of the individual – the mutual respect that is inherent in a tolerant society. Somehow two sets of values must be brought into a degree of balance reflecting the rights of the individual on the one hand, and the rights of society and the State on the other. The prevailing level of violence in the Islamic Republic of Iran confirms that this balance has yet to be achieved.

68. In short, the Special Representative believes that a will exists on the part of many leaders in the Islamic Republic of Iran to move the society towards a more tolerant and more peaceful condition. The obstacles to be overcome in achieving this goal are very evident and success is by no means assured. In the meantime, significant violations of human rights continue. The Government needs to broaden its agenda for change and to declare a strong commitment to achieving certain goals within specified time-frames.

Notes

[a] General Assembly resolution 34/180, annex.

[b] *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August–3 September 1955: report prepared by the Secretariat* (United Nations publication, Sales No. 1956.IV.4), annex I, sect. A.

[c] Francisco Capotorti, "Study on the right of persons belonging to ethnic, religious and linguistic minorities" (E/CN.4/Sub.2384 and Add.1–7), 30 June 1997.

Appendix I

Freedom of expression

1. In February, it was reported in an Iranian newspaper that the clerics court had sentenced Abolfazi Moussavian, editor of *Nameyeh Mofid*, to one year in prison on charges of publishing and propagating false information.

2. In March, a foreign wire service reported that Iranian publisher Akbar Ganji had been sentenced to one year in prison after being found guilty of publishing false news in the monthly *Rah-e No*. Ganji had denied the charges and demanded a jury trial open to the public. Ganji was subsequently released. In May, a foreign wire service reported that Fereydoun Verdinejad, the Director-General of IRNA, had been summoned to answer unspecified charges before the press tribunal.

3. In July, the Tehran English-language press announced that the Press Council had issued permission for the appearance of 13 new publications.

Appendix II

Situation of the Baha'is

1. In his last report to the Commission, the Special Representative had drawn attention to the case of Mansour Haddadan. The Permanent Mission of the Islamic Republic of Iran to the United Nations responded that he had been "arrested on charges of organizing unauthorized and illegal meetings and acting against national security. In accordance with due process of law, he was tried by a competent court and benefited from a defence lawyer. The court found him guilty of the charges and he was sentenced to five years' imprisonment. The verdict was also reaffirmed by the court of appeal of Khorassan Province".

2. The Special Representative has received information indicating that verdicts were reached by the Court of Appeals in Khurasan on 18 September 1997 concerning the cases of two Baha'is, Jamali'd-Din Hajipur and Mansur Mihrabi, referred to in his report to the Commission. The joint verdict of the Appeals Court, dated 18 September 1997, affirmed the lower court finding of guilt on grounds that the Baha'i faith constituted an illegal organization which posed a threat to the internal security of the Islamic Republic of Iran.

3. On 27 July 1998, the Special Representative wrote to the Minister of Foreign Affairs to express his regret over the reported execution of Ruhu'ullah Rawhani, a Baha'i from Mashad, in relation to charges of having converted a woman to the Baha'i faith. He also expressed his concern about the three other Baha'i citizens detained in Mashad, Ata'ullah Hamid Nasirizadih, Sirus Dhabini-Muqaddam and Hidayat-Kashifi Najabadi, who had been sentenced to death. The Special Representative drew the attention of the Government of the Islamic Republic of Iran to its obligations pursuant to article 6 (2) of the International Covenant on Civil and Political Rights,[a] which provides that the death penalty may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime. The Special Representative also expressed his concern that the religious beliefs of the accused may have been a persuasive factor in the eyes of the court, and may have prevented the accused from receiving a fair trial according to international human rights standards. The Special Representative referred also to the obligations incumbent upon the Government concerning the right to fair trial as set out in article 14 of the Covenant, and requested the Government's urgent intervention to ensure that the reported death sentences would not be carried out. The Special Representative requested the Government not to allow the imposition of the death penalty without due legal process in full conformity with international human rights standards.

4. It appears that pressures on Baha'is from the judiciary have increased. Neither Baha'i marriage nor divorce is legally recognized in the Islamic Republic of Iran, and the right of Baha'is to inherit is denied. The freedom of Baha'is to travel outside or inside the Islamic Republic of Iran continues to be impeded by Iranian authorities or has been denied altogether.

Notes

[a] See General Assembly resolution 2200 A (XXI), annex.

Appendix III

Correspondence between the Government of the Islamic Republic of Iran and the Special Representative, January–August 1998

1. During the reporting period, correspondence between the Special Representative and the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva was exchanged, some of which concerned requests for information about individual allegations. The Special Representative appealed to the Iranian Government to ensure that those affected benefited from all the internationally recognized safeguards, particularly those provided for in the International Covenant on Civil and Political Rights[a] or other relevant international human rights instruments, for example, the Convention on the Rights of the Child[b] and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules).[c]

2. With regard to specific cases, the Special Representative received a letter dated 28 May 1998 from the Permanent Mission of the Islamic Republic of Iran to the United Nations providing information on six persons referred to in the Special Representative's report to the Commission on Human Rights (E/CN.4/1998/59 of 28 January 1998). The Special Representative noted that Kalimollah Tohid, a well-known Kurdish scientist and writer, had been arrested in Mashad and that nothing further had been heard of him. In its letter of 28 May 1998, the Permanent Mission informed the Special Representative that Mr. Tohid had been sentenced to one year's imprisonment by the Court in Mashad on 15 October 1997 for falsification but that on 19 February 1998, he was pardoned and released.

3. In a section of his Commission report dealing with the treatment of religious dissidents, the Special Representative referred to the treatment of certain dissident Shia clerics, mainly in Qum, and drew attention to information he had received that two further supporters of Grand Ayatollah Shirazi, Syed Aref Nassrollah and Theqatol Islam Bagirzadeh, were arrested in Qum on 15 October 1997 by agents of the clergy courts. The Permanent Mission in its 28 May letter stated that:

> "Mr. Syed Aref Nassrollah was arrested on charges of smuggling 2,000 handwritten old books out of Iran, assisting people to leave the country illegally, and using a fake car plate. He was later released on bail on 6 September 1997. His case is under consideration."

4. The Special Representative also raised the issue of torture, and cruel, degrading and inhuman punishment in connection with a number of sentences ordering the amputation of fingers of persons found guilty. In particular, the Special Representative drew attention to reports in *Salaam* that, in September 1997, Branch 12 of Tehran's General Court had sentenced one Gholam Hossein to have four fingers amputated for stealing 28 cameras and camera equipment. The Special Representative referred also to reports of September 1997 in Jomhouri-Islami that Gotvand General Court had sentenced Asghar Ghasemi and Farhad Heidari to have their hands amputated for robbery and forgery. In its 28 May letter, the Permanent Mission of the Islamic Republic of Iran to the United Nations indicated that the sentence of Mr. Gholam Hossein had been rescinded on grounds that the owners of the stolen goods did not pursue their case. The letter indicated that Asghar Ghasemi and Farhad Heidari had appealed and "subsequently their cases have been sent to the Supreme Court for review".

5. On 25 August 1998, the Special Representative addressed the Minister of Foreign Affairs concerning the arrest of Iranian scholar Hojatoleslam Sayyid Mohssen Saeidzadeh.

According to information received by the Special Representative, Mr. Saeidzadeh had been arrested at his home by three plainclothes security officers who did not present a warrant and placed him in incommunicado detention. He was not provided with access to a lawyer or an opportunity to inform or meet with family members. Neither were criminal charges brought against him. According to the Islamic Human Rights Commission, a case was being prepared against Mr. Saeidzadeh in a special court for the clergy.

6. In his letter of 25 August, the Special Representative referred to article 9 (1) of the International Covenant on Civil and Political Rights, which provides, *inter alia*, that no one shall be subjected to arbitrary arrest or detention, and to article 9 (2) of the Covenant which guarantees to anyone placed under arrest the right to be informed, at the time of the arrest, of the reasons for his arrest and to be promptly informed of any charges against him. He further reminded the Government of its obligations under article 9 (4) of the Covenant which provides that anyone deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court of law in order that that court might decide without delay on the lawfulness of his detention and order his release in any case where the detention proves unlawful.

7. The Special Representative also drew the Government's attention to article 14 of the International Covenant on Civil and Political Rights which provides for a fair and public hearing by a competent, independent and impartial tribunal established by law, as well as for the accused to have the right to benefit from the services of a lawyer of his own choosing. Moreover, he expressed his deep concern that, based on the information available to him, Mr. Saeidzadeh's arrest appeared to have been related not to criminal activity, but to his intellectual endeavours and publicly expressed opinions. If this was indeed the case, his arrest would constitute a breach of article 19 of the Covenant, which guarantees the right to freedom of expression, including freedom to seek, receive and impart information and ideas of any kind. Furthermore, the Special Representative requested that the Government provide any information that it could on this case, including on any steps taken by the competent authorities to guarantee Mr. Saeidzadeh's rights to liberty and security of person in compliance with the provisions contained in the relevant international legal instruments.

8. The Special Representative continues to be concerned about the infrequency of responses from the Government and has raised the problem with the Iranian authorities with a view to improving cooperation in this area.

Notes

[a] See General Assembly resolution 2200 A (XXI), annex.

[b] General Assembly resolution 44/25, annex.

[c] General Assembly resolution 40/33, annex.